

Request dated: July 7, 2008
App. No. 10/658,507; Filed: September 9, 2003
Response to Office Action of June 6, 2008

REMARKS

Applicants are unable to adequately respond to the Office Action mailed June 6, 2008, as the action is unclear in the following areas:

- 1) On page 7 of the Office Action, U.S. Patent No. 4,633,722, allegedly issued to "Wall", is indicated as anticipating, or in the alternative, rendering obvious claims 50, 60 and 61. However, as indicated in the Examiner's Notice of References Cited, Patent No. 4,633,722 was issued to Beardsmore et al, and is directed to a gyroscope apparatus rather than a prosthesis as indicated. The correct patent number for the Wall reference is respectfully requested.
- 2) Claims 79 and 80 are listed as rejected in the Office Action Summary, but no basis for their rejection is provided within the body of the Office Action. Applicants respectfully request the basis for the rejection of claims 79 and 80, or an indication that the claims are allowable.
- 3) On page 2 of the Office Action, claims 50 and 54 **are listed** as rejected under 35 U.S.C. 102(b), or in the alternative under 35 U.S.C. 103(a), in the summary at the beginning of the section. However, the explanatory paragraphs that follow in that section do not refer to claims 50 and 54. Clarification is respectfully requested.
- 4) On page 2 of the Office Action, claims 52 and 78 **are not listed** as being rejected in the summary at the beginning of the section. However, claims 52 and 78 are referred to in the explanatory paragraphs that follow in that section. Clarification is respectfully requested.
- 5) On page 8 of the Office Action, claims 52 and 53 **are listed** as rejected under 35 U.S.C. 103(a) in the summary at the beginning of the section. However, the explanatory paragraphs that follow in that section do not refer to claims 52 and 53. Clarification is respectfully requested.

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- 6) On page 8 of the Office Action, claims 54, 55, and 57 **are not listed** as being rejected in the summary at the beginning of the section. However, claims 54, 55, and 57 are referred to in the explanatory paragraphs that follow in that section. Clarification is respectfully requested.
- 7) Applicants note that U.S. Patent No. 5,314,489 to Hoffman et al. is listed in the Examiner's Notice of References Cited, but its relevance is not indicated in the Office Action. Clarification is respectfully requested.
- 8) The Office Action Summary indicates that Information Disclosure Statements filed 9/9/03, 11/3/04 and 3/8 (presumably 2005) were presumably considered and copies attached to the Office Action. However, Applicants have not received these copies. In addition, Applicants respectfully request that IDSs filed 7/28/06, 8/23/07, 11/5/07, and 4/25/08 be considered, and an initialed copy of each of the above IDSs be returned to the Applicants.

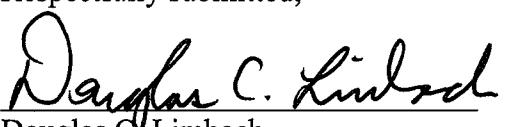
CONCLUSION

In light of the issues outlined above, Applicants request that a corrected Office Action be provided under MPEP 710.06. Applicants are submitting this request within one month of the Office Action mailed June 6, 2008 (the next business day after the due date, which falls on a Sunday.) Accordingly, Applicants request that the original 3-month period for responding be reset to the mailing date of the corrected office action, as provided for in MPEP 710.06. Should the Examiner have any question, the Examiner is encouraged to telephone the undersigned at (650) 287-2163.

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In the event the U.S. Patent and Trademark Office determines that an extension and/or other relief is required, Applicants petition for any required relief including extensions of time and authorizes the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to Deposit Account No. 50-4050 referencing docket no. 10002-701.411. However, the Commissioner is not authorized to charge the cost of the issue fee to the Deposit Account.

Date: July 7, 2008

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